

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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JAIME HUGHES, MARY CORONADO,  
AUDREY MILLS, VIRGINIA  
CARDOZA, KAREN DELUCCHI,  
JOLENE GIBSON, BARBARA  
HEDRICK, SUZANNE HENNING, WILL  
JOHNSON, LINDA MAGER, MARIA  
MACIAS, CARL MORROW, CANDICE  
PRICE, VIRGINIA RUIZ, CARMEN  
SIMMONS, TREASA TREDWELL,  
MARINA TORRES, SHEILA WALL,  
LORIE WEISS and KATHI LYNN  
CORONADO,

Plaintiffs,

NO. CIV. S 03-0166 MCE DAD

v.

ORDER

CITY OF STOCKTON and DOES 1  
through 100, in their  
individual capacities,

Defendants.

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2       Through this motion, Plaintiffs seeks Judgment as a Matter  
3 of Law ("JMOL") under Federal Rule of Civil Procedure<sup>1</sup> 50(b).<sup>2</sup>

4       JMOL is proper only if "the evidence, construed in the light  
5 most favorable to the nonmoving party, permits only one  
6 reasonable conclusion, and that conclusion is contrary to that of  
7 the jury." White v. Ford Motor Co., 312 F.3d 998, 1010 (9<sup>th</sup> Cir.  
8 2002). To justify relief through JMOL, there must be a "complete  
9 absence of probative facts to support ... [the] conclusion  
10 reached so that no reasonable juror could have found for ...  
11 [the] nonmoving party." Eich v. Board of Regents for Central  
12 Missouri State Univ., 350 F.3d 752, 761 (8<sup>th</sup> Cir. 2003). JMOL  
13 should not be granted unless there is an overwhelming amount of  
14 evidence in favor of the Plaintiffs as moving parties, and fair  
15 minded persons could not have arrived at a verdict against them.  
16 See Meloff v. New York Life Ins. Co., 240 F.3d 138, 145 (2d Cir.  
17 2001); Strickland Tower Maintenance, Inc. v. American Tel & Tel.  
18 Comm., Inc., 128 F.3d 1422, 1426 (10<sup>th</sup> Cir. 1997). In assessing  
19 the propriety of JMOL, the Court may not make credibility  
20 determinations or weigh the evidence. City Solutions, Inc. v.  
21 Clear Channel Communications, 365 F.3d 835, 841 (9<sup>th</sup> Cir. 2004).

22       The circumstances of the instant case do not approach these  
23 rigorous criteria, and do not justify the extraordinary relief  
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25       <sup>1</sup>All further references to "Rule" or "Rules" are to the  
26 Federal Rules of Civil Procedure unless otherwise noted.

27       <sup>2</sup>Plaintiffs' counsel previously moved for JMOL under 50(a).  
28 That motion, which was denied, was a prerequisite for bringing  
the present Rule 50(b) motion. Janes v. Wal-Mart Stores, Inc.,  
279 F.3d 883, 886-87 (9<sup>th</sup> Cir. 2002).

1 represented by JMOL. First, despite Plaintiffs' apparent  
2 assertion to the contrary, the standard outlined above makes it  
3 clear that the Court cannot reweigh the evidence offered at  
4 trial. The fact that evidence was presented, from which the jury  
5 could have based its verdict, is enough to uphold the verdict in  
6 the face of a requested JMOL. Here, the jury heard evidence  
7 that pursuant to a November 2000 agreement between labor unions  
8 representing Plaintiffs and Defendant City of Stockton, regularly  
9 scheduled overtime pay was folded into Plaintiffs' base salary.  
10 The jury also received evidence that Plaintiff's would have  
11 received a 23.7 percent increase in their base salary were  
12 overtime not so included, as well as evidence that Plaintiffs'  
13 salaries after the 2000 agreement were in fact more than they had  
14 been prior to the agreement, when overtime had been expressly  
15 reflected in their pay calculations. Given that evidence, the  
16 Court cannot conclude, as it must to justify JMOL, that no  
17 reasonable jury could have found in favor of the City of  
18 Stockton.

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1 Plaintiffs' Motion for Judgment as a Matter of Law is  
2 accordingly DENIED.<sup>3</sup>

3 IT IS SO ORDERED.

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5 DATED: October 3, 2005

  
6 MORRISON C. ENGLAND, JR  
7 UNITED STATES DISTRICT JUDGE  
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<sup>3</sup>Because oral argument would not be of material assistance, this matter was deemed suitable for decision without oral argument. E.D. Local Rule 78-230(h).